

MEMBERS PRESENT: Mayor Richard H. Balbier, Chairman  
Katie Gallagher, Council Representative  
Ray Porterfield  
Joe Polidori  
Jim Oper

ABSENT:

ALSO PRESENT: Tom Ockington, Building Commissioner  
Barbara Stanton, Secretary

Chairman Balbier called the Brooklyn Planning Commission meeting to order. Clerk, call the roll: Mayor Balbier, "here", Katie Gallagher, "here", Ray Porterfield, "here", Joe Polidori, "here", Jim Oper, "here".

Chairman Balbier: On tonight's Agenda is approval of the minutes from September 6, 2012. A request from Alan Sirak for a lot split and consolidation located at 7324 and 7328 Associate Avenue, P.P. #431-13-031, 431-13-034, 431-13-062 and 431-13-063. A request from Bruce G. Rinker on behalf of Sheetz, Inc. for Final Site Plan approval to locate a 6,500 square foot convenience store with food service/drive thru; automated car wash; and fueling station to be located at 10315 Cascade Crossing, P.P. #433-10-008. A request from Agile Sign & Lighting to install an eighty-four square foot externally illuminated sign, and a thirty-six square foot externally illuminated log sign on the front building face; and sixty-eight square foot externally illuminated signs on the rear and west building faces to be located at 10310 Cascade Crossing, P.P. #433-10-012.

A motion was made by Katie Gallagher, second by Ray Porterfield to approve the minutes of September 6, 2012. **Vote Resulted:** Yes – Mayor Balbier, Katie Gallagher, Ray Porterfield, Joe Polidori, Jim Oper.

Chairman Balbier: The first item on the agenda is a request from Alan Sirak for a lot split and consolidation located at 7324 and 7328 Associate Avenue. Mr. Sirak was present. Mayor Balbier: Mr. Sirak owns five lots and three of the lots are land locked and he would like to change the parcels into two lots and they both exit on Associate Avenue. Commissioner Ockington: There is one error on the drawing which Mr. Courtney is addressing. The board reviewed the drawings. The plans are under review by the City Engineer; no one has any objections to this proposal and the review is to verify the legal descriptions. After further discussion a motion was made by Jim Oper, second by Mayor Balbier to approve a lot split and consolidation located at 7324 and 7328 Associate Avenue. **Vote Resulted:** Yes – Mayor Balbier, Katie Gallagher, Ray Porterfield, Joe Polidori, Jim Oper.

Chairman Balbier: We will now move on to a request from Agile Sign & Lighting to install an eighty four square foot externally illuminated sign, and a thirty six square foot externally illuminated logo sign on the front building face and sixty eight square foot externally illuminated signs on the rear and west building faces to be located at 10310 Cascade Crossing. Commissioner Ockington: Signage meets code and there are no variances required.



They are also putting replacement faces in the existing high-rise sign and the multi-tenant sign on the corner of Cascade Crossing and Tiedeman Road.

After further discussion, a motion was made by Mayor Albier, second by Ray Porterfield to approve the request from Agile Sign & Lighting to install an eighty four square foot externally illuminated sign, and a thirty six square foot externally illuminated logo sign on the front building face and sixty eight square foot externally illuminated signs on the rear and west building faces to be located at 10310 Cascade Crossing. **Vote Resulted:** Yes — Mayor Albier, Katie Gallagher, Ray Porterfield, Jim Oper, Joe Polidori, Abstain.

Chairman Albier: Lastly, a request from Bruce G. Rinker on behalf of Sheetz, Inc. for Final Site Plan approval to locate a 6,500 square foot convenience store with food service/drive thru; automated car wash; and fueling station to be located at 10315 Cascade Crossing. Mayor Albier: Sheetz came before us at the beginning of the year and they were denied the request. Sheetz, Inc. appealed the decision to the Board of Zoning Appeals and they approved the request. There appears to be a couple of items on the final site plans that need to be changed. Mr. Rinker: Exhibits were reviewed by the Commission. The written portion of the traffic study by GPD Group provided the data at previous meetings. Both traffic safety engineers, Mike Hobbs and Ryan Gillespie are present here tonight. We provided the written report and computer synchronized demonstration to show how the data portrays what the traffic flows would be with the existing conditions. This was presented to the Planning Commission and Board of Zoning Appeals. There was discussion about the traffic study report. The final site plan and the preliminary site plan have only minor adjustments and changes. There was discussion regarding the minor changes of the final site plan. This is to demonstrate the extent to which Planning Commission and Zoning Board of Appeals reviewed this. The task before you tonight is pretty topical. Exhibits #1 through #6 were handed to the Commission which included the traffic study, site plan, proposed Sheetz Development letter, C. W. Courtney letter and the minutes of the June 19, 2012 Board of Zoning Appeals meeting. We met informally with the Economic Development Committee before the application. Sheetz has made it clear that for this site to function a traffic signal placed on Tiedeman Road with the full access, egress and ingress with a curb cut, in addition to taking advantage of the pre existing intersection at Cascade Crossing is very much a part of this project and has been reviewed extensively by all professionals associated with the City. Before the Zoning Board of Appeals meeting, Mr. Gillespie meet with the Safety Director, with Chief Mielke and the Fire Chief and reviewed the very same materials that I am presenting to you here, and that we presented to the Planning Commission and Zoning Board. We left that meeting with the understanding that the safety forces were satisfied that this was a good configuration. In terms of validating what has been done was expressly part of the Zoning Board of Appeals meeting. I would venture to say well over half of the hearing that night dealt with all of the details Mr. Gillespie went over. Again, if you have further question about the traffic study tonight we can address them. Exhibit #5, D. B. Hartt, Inc. addresses the ordinance site plan procedures along with the zoning codes. There are two area variance requests scheduled for the Board of Zoning Appeals meeting in October. There was discussion of the variances that will be required. We understand that Mr. Courtney went through extensive back and forth with the GPD engineers. I did see an email this morning that Mr. Courtney stated that all the engineering details are good; subject to some review of traffic. I suspect that will become a topic of discussion tonight. It is our position that the city has made a decision on this issue and there is no further need to go into that inquire.



Mr. Sferra discussed the site plan changes to the Commission regarding the dumpster location, the car wash, ADA access, pole locations, curb cut and pavers. We worked extensively with Mr. Courtney regarding the storm water requirements. There was further discussion regarding the building structure. There was discussion regarding the north bound left turning lane under the overpass and if there is enough room for larger vehicles. There was discussion regarding the catch basin closest to Big Creek located on the property, its function, pre treatment, OEPA standards and sustainability. There was discussion regarding the credentials and documentation of the reports that are processed using federal, state and city regulations through Mr. Sferra and working with Mr. Courtney. There was discussion in the event of a fuel spill and how it would be handled and the various programs in place by Sheetz. There was discussion of the credentials Mr. Sferra has along with his responsibility to this project. Mr. Rinker: Have all the plans been examined and approved by the City. Commissioner Ockington: Yes. Mayor Albier: I spoke to Mr. Courtney today, and he approved the plans with the two exceptions which are the width of the driveway and the height of the canopy. I was notified by the Law Director in the last two weeks and he stated that the Planning Commission and Board of Zoning Appeals do not have the authority to approve a traffic light. Under the law the only person that can approve a traffic light is the Director of Safety Ed Chessar. Mr. Rinker: Just so the record is clear, I was advised yesterday that the Law Director and you had a meeting. Mr. Courtney indicated that Mr. Ockington, Police Chief Mielke was also at the meeting and Mr. Chessar was not at the meeting. I will state for the record prior to the Board of Zoning Appeals meeting, we did in fact review all the traffic data, video in direct discussion with Mr. Chessar; had no problem with the traffic light and the Chief had also indicated this as well. What I am concerned about is that I have not seen a written report from Mr. Courtney, Mr. Claussen, Chief Mielke or Mr. Chessar, but the record is very clear that up until I heard about this yesterday that the City collectively reviewed and references made there was never a suggestion that there would be some additional step. Our understanding is that these issues have been resolved and I had not had a chance to speak to the Law Director. I left him a message. Since I found out about this 24 hours prior to this meeting and I am not sure why the City would take this approach. Mayor Albier: The Law Director is in Germany. Mr. Rinker: I would like a written document stating the reasons. I have been requesting from Mr. Ockington to provide us with Mr. Courtney's written report on this issue. That is all I saw was an email this morning and talking with Mr. Courtney, I understand that he has something about questions regarding the traffic signalization. Do you have insight on that your Honor? Mayor Albier: No, I do not. Chief Mielke: My position from the beginning was speaking purely on the angle of safety. I would prefer not putting a driveway out on Tiedeman Road, I made that very clear. If the plans are to put a driveway on Tiedeman Road; it definitely needs a traffic light. My preference is not to have a driveway. If the plans include a driveway, I understand the traffic study and it shows that the driveway needs a traffic light. I believe the plans were presented as such a traffic light will be needed. My concern that I have, was that the north bound traffic on Tiedeman Road may not have a sufficient amount of line of sight to the traffic signal because of the bridge. I've looked in the manual of the Ohio Traffic Control devices and Ohio does not have a minimum distance, it speaks of a sufficient amount of distance. Other states have ranges of distance for approaching a traffic signal. I think this needs to be addressed with CSX to place a traffic signal on the overpass similar to Ridge Road near I-480. My concern is the line of sight with the traffic signal. Mr. Gillespie: We are looking into that issue. We will insure that is



sufficient stopping distance. There is no set distance required to a signal head. As we discussed should there be an issue there are options of putting a supplement sign/signal head prior to the bridge or advised warning signs to alert drivers. It can be addressed as we move forward to the design stage. This doesn't appear to be an issue. We would like to look into this. Mr. Rinker: Are there any changes in the site plan that would warrant changes to the conclusion that is represented in the studies? Mr. Gillespie: No. There was further discussion regarding the traffic signal and that Key Bank is in support of the traffic signal. There was further discussion regarding traffic signal/pattern within Key Bank. Mr. Hartt: Exhibit #5 was presented to the Commission. I was asked on behalf of the applicant to prepare this summary as it applies to what the applicant has submitted. The conditional use and preliminary site plan was denied by the Planning Commission and that decision was overturned by the Board of Zoning Appeals. At that time how this request applies to the conditions and uses of the appropriate planning criteria. When the Zoning Board considered this they had the opportunity to add other conditions if they so choose specified in the code. They did not add any additional conditions. The approval of the plan was based on the plans submitted with supporting technical supports and documentations. There was discussion regarding the zoning code, procedures, in this case it is critical to know that the preliminary plan was a very detailed plan. In effect it had all the elements that are expected in a final plan. The City Administration at that time supported the merits of the plan as approved. There are no documents to the contrary that this is not acceptable. There was further discussion. Mr. Rinker: The issue of the Safety Director approving the traffic signal was never brought up in any of the previous meeting.

It is not fair to the applicant who has spent the amount of dollars that has been expended. After having to secure these approvals from the municipality, go through a very exhaustive engineering process and were told that the engineer is very good with all the engineering processes. The final point, I feel it is important for the record that Mr. Courtney had forgotten that he provided on April 2, 2012 his opinion of reviewing the traffic study. Mr. Rinker read the letter from C. W. Courtney (see exhibit #6). The Planning Commission and Zoning Board reviewed the plans as presented. With all due respect to the Law Director, the fact that the Safety Director is supposed to issue the permit is an all together proposition determining that this gets installed. Sheetz has been very straight forward as saying from the beginning we want to put this light in and pay for it. When you look at section 305.02, one of the criteria for signing the permit by the Safety Director is if you can afford it. The city is not paying for the traffic signal, Sheetz is paying for it. We are respectfully requesting that this decision to stop the process and have some additional work done is not appropriate, not warranted that we believe that this is a project that the city will enjoy and promote. It is a shame that we are going through another eleventh hour shift. Katie Gallagher: At what point did you meet with the safety forces in the informal meeting? Mr. Rinker: Just before the Zoning Appeals meeting and we went through everything that was presented to this Commission and later to the Zoning Board. If there were concerns expressed by the Police Chief or Fire Chief or by the Safety Director anything that was raised in that discussion as Mr. Gillespie indicated, we provided. The City is saying we need something more formal, there was plenty of opportunity to do it. Mr. Courtney's opinion is also formal. This has been a very thorough process which we understood was being handled in good faith.

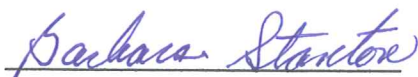


Tom Murphy my address is 4579 Sunset Oval: I am on Council and on day one I objected to this project simply because of the light. I had stated that Sheetz will not be built if there is a traffic light. This will stop traffic and that's what they want to do and that's what they are going to do. We have traffic engineering people show up and say we have a study and did this and that. To say that putting another light three hundred feet down is not going to slow traffic. I think this is ridiculous. I do not think that the Planning Commission should approve this. If you want to go to court, go for it. My feeling right now is Sheetz is saying you're going to have that light and you are going to like it. Mr. Rinker: In the court of law, and we don't want to go to court; in fact this situation in the City and worked diligently with City Officials we've gone through the process and followed the law and the codes of the City. We have done it very thoroughly. We believe in this project and the fact of the matter is the opinion is that are so relevant to the safety issues that everyone is focused on have to be judged not as a personal opinion. Any calculated educated guess can sometimes be inaccurate. So we sometimes know that experts can make mistakes but the best that our system allows is to use good information, apply good skills, and come up with conclusions and recommendations. That's what GPD did. In fact that is what the City Engineer did as well. They followed professional training standards and very explicitly said the data, the methodology the scope and the conclusions are all there. If we don't follow that kind of formal professional way of evaluating the information then we are left with personal opinion and that's not what this process is about. Mr. Murphy: I would just like to add, if I was Sheetz, Key Bank or anybody and I was paying for a study, they would reach my conclusion. There was further discussion. Ray Porterfield: Mr. Murphy; that property has been vacant for 15 years or more. It is time to put something in it. The City has been waiting around for an office building that has not showed up yet.

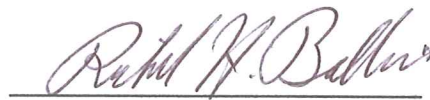
Mayor Balbier: First of all, Bruce you have been very professional and I think Sheetz is a fantastic company and this has been progressing right along and I intended to have a vote tonight, until the Law Department stated that the Planning Commission doesn't have the authority to do this. From my standpoint I would like to withhold our vote tonight until we can concur with our Law Director again. We have all the information; we will sit down with our Law Director. After further discussion a motion was made by Mayor Balbier, second by Joe Polidori to table a request from Bruce G. Rinker on behalf of Sheetz, Inc. for Final Site Plan approval to locate a 6,500 square foot convenience store with food service/drive thru; automated car wash; and fueling station to be located at 10315 Cascade Crossing. . **Vote Resulted:** Yes – Mayor Balbier, Ray Porterfield, Joe Polidori, Jim Oper. No – Katie Gallagher.

A motion was made by Mayor Balbier, second by Katie Gallagher to adjourn. **Vote Resulted:** Yes - Mayor Balbier, Katie Gallagher, Ray Porterfield, Joe Polidori, Jim Oper.

Meeting adjourned.



Barbara Stanton  
Secretary



Mayor Richard Balbier  
Chairperson